

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE NAMENDA INDIRECT PURCHASER
ANTITRUST LITIGATION

No. 1:15-cv-6549 (CM) (RWL)

ORDER

McMahon, J

Plaintiff SBA has responded to the Court's offer to provide additional evidence relating to the injury it suffered from the "hard switch" by standing on its original submissions in connection with the motions for summary judgment. (Docket # 692). Specifically, SBA calls the court's attention to pages 49–52 of the Expert Report of Laura Craft. But that is the very evidence – which the court already considered in its summary judgment order – that does not identify which of SBA's reimbursements were attributable to the "hard switch." Although the data shows how many reimbursements for Namenda XR were made in each year between 2012 and 2017, the reimbursements are not broken down in a way that identifies those that were made during the "hard switch" period. And it is not possible to infer that every purchase of Namenda XR made during or after the "hard switch" period is attributable to the "hard switch."

Therefore, defendants' motion for summary judgment is GRANTED to the extent of dismissing the hard switch allegations.

Dated: July 26, 2021

A handwritten signature in black ink, appearing to read "P. Allen McMahon", written over a horizontal line.

United States District Judge

BY ECF TO ALL COUNSEL